

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
EASTERN DIVISION
No. 4:15-CV-183-D

Z.G., by and through his)
mother and next friend, C.G.,)
C.G., on behalf of herself, and)
J.G., on behalf of himself,)

Plaintiffs,)

v.)

ORDER

PAMILCO COUNTY PUBLIC)
SCHOOLS BOARD OF EDUCATION,)
and LISA JACKSON, Superintendent,)
in her official capacity,)

Defendants.)

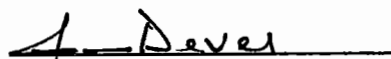
On August 22, 2019, defendants moved to dismiss plaintiffs' amended complaint with prejudice for failure to prosecute and failure to comply with court orders [D.E. 61] and filed a memorandum in support [D.E. 62]. On September 2, 2019, plaintiffs moved nunc pro tunc to respond to the court's August 7, 2019 show cause order [D.E. 63, 64]. On September 10, 2019, plaintiffs moved to extend the time to file a second amended complaint [D.E. 66]. On October 9, 2019, the court referred the motions to Magistrate Judge Jones for a memorandum and recommendation ("M&R") [D.E. 73]. On December 2, 2019, Magistrate Judge Jones issued a comprehensive Memorandum and Recommendation ("M&R") and recommended that plaintiffs' motion nunc pro tunc be denied, that plaintiffs' motion for an extension of time be denied, and that defendants' motion to dismiss be granted. On December 16, 2019, plaintiffs filed objections to the M&R [D.E. 75]. On December 30, 2019, defendants responded [D.E. 76].

"The Federal Magistrates Act requires a district court to make a de novo determination of those portions of the magistrate judge's report or specified proposed findings or recommendations to which objection is made." Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005) (emphasis, alteration, and quotation omitted); see 28 U.S.C. § 636(b)(1). Absent a timely objection, "a district court need not conduct a de novo review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." Diamond, 416 F.3d at 315 (quotation omitted).

The court has reviewed the M&R, the record, and plaintiffs' objections. As for those portions of the M&R to which plaintiffs made no objection, the court is satisfied that there is no clear error on the face of the record. As for the objections, the court has reviewed the objections and the M&R de novo. The court agrees with the M&R. The court has over 700 pending case and cannot countenance the inexcusable manner in which plaintiffs have handled this case. As discussed in the M&R, plaintiffs failed to prosecute and failed to comply with this court's orders. The court has reviewed plaintiffs' objections and overrules them as meritless.

In sum, plaintiffs' objections to the M&R [D.E. 75] are OVERRULED, the court ADOPTS the M&R [D.E. 74], GRANTS defendants' motion to dismiss [D.E. 61], DENIES plaintiffs' nunc pro tunc motion [D.E. 63], DENIES plaintiffs' motion to extend time to file a second amended complaint [D.E. 66], and DISMISSES plaintiffs' amended complaint with prejudice. The clerk shall close the case.

SO ORDERED. This 18 day of February 2020.


JAMES C. DEVER III
United States District Judge